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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/392,106	09/08/1999	G. MICHAEL PHILLIPS	35512-00006	9570

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EXAMINER

BASHORE, ALAIN L

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/392,106

Applicant(s)

PHILLIPS ET AL.

Examiner

Alain L. Bashore

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 9-2-03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. In view of the appeal brief filed on 9-2-03 PROSECUTION IS HEREBY REOPENED. A new art rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

It is noted that the first page of the Appendix includes an incorrect application number referenced. Please correct if a new appeal brief are to be filed.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-26 of the claimed invention are directed to non-statutory subject matter.

The claims do not recite a certain level of "real world" value, as opposed to subject matter that represents nothing more than an idea or concept, or is simply a starting point for future investigation or research. No indication of practical application is present for the claimed invention.

It is noted that recitation of "asset" or "financial asset" encompasses intangible assets that may be an idea or concept per se.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In the claims there is recited "previously predicted" and "currently predicted" are confusing. The term "predicted" implies something made known before hand. The terms "previously" and "current" implies past and current situations.

In claim 10 there is claimed "type" which is considered a relative term and therefore indefinite.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2, 6-8, 11-14, 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over White, Jr.

White, Jr. discloses a method, apparatus and computer-readable medium for predicting a value of a target variable based on predictions of other variables. There is obtained historical values for the target variable at each of plural time points (col 7, lines 12-30). Values are assigned to parameters of a forecasting model to obtain previously predicted values for the plural predictor variables to the historical values for the target variables (col 7, lines 50-55). A value of the target value is predicted, from currently predicted values for at least a subset of the plural predictor variables using the forecasting model and the values assigned to the parameters of the forecasting model (col 10, lines 7-19). The target variable is a measure of a value of a financial asset (col 7, lines 35-49). There is obtained previously predicted values for use with currently predicted values for each plural predictor variable that is also used by the forecasting model (col 7, lines 66-67; col 8, lines 1-6).

The term "best fit" is not disclosed to White, Jr.

Since applicant does not define the term, the examiner will take the broadest meaning of the term, which is "to approximate".

It would have been obvious to one with ordinary skill in the art to include a best fit since White teaches better performance achieved by better model performance (col 8, lines 5-6).

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over White, Jr. in view of Management Science Paper as applied to claim 3, and further in view of Statistics Dictionary Reference.

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over White, Jr. in view of Statistics Dictionary Reference.

Nether White, J. nor Management Science Paper discloses a stepwise linear regression technique.

Statistics Dictionary Reference discloses a stepwise linear regression technique (see definition of "selection methods in regression" page 339-340).

It would have been obvious to one with ordinary skill in the art to utilize a stepwise linear regression technique to White, Jr. because The Dictionary Reference teaches such techniques useful when variable manipulation no longer requires the further use of certain variables in a calculation (page 340).

9. Claims 3, 9-10, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over White, Jr. as applied to claims 1-2, 6-8, 11-14, 23-24 above, and further in view of Management Science Paper.

Claim 18-22, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over White, Jr. in view of Statistics Dictionary Reference as applied to claim 15 above, and further in view of Management Science Paper.

White, J. does not disclose:

- statistical curve fitting technique;
- a combination forecast;
- forecasts of a plurality of different individuals

Management Science Paper discloses statistical curve fitting technique (p 1116; col 1-2), combination forecasts (p 1115; col 2) and forecasts of a plurality of different individuals (p 1127-128).

It would have been obvious to one with ordinary skill in the art to include statistical curve fitting technique to White, Jr. because Management Science Paper teaches modeling involves curve fitting techniques.

It would have been obvious to one with ordinary skill in the art to include combination forecasts to White, Jr. because Management Science Paper teaches importance of knowing what model class is appropriate in modeling.

It would have been obvious to one with ordinary skill in the art to include forecasts of a plurality of different individuals to White, Jr. because Management Science Paper teaches different individuals conceive of different models in the art.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over White, Jr. as applied to claim 1 above, and further in view of Deco et al.

White, J. does not disclose a neural network technique.

Deco et al discloses a neural network technique (col 1, lines 55-62).



It would have been obvious to one with ordinary skill in the art to include a neural network technique to White, Jr. because Decos et al teaches such as a training function in modeling (col 1, lines 55-56).

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alain L. Bashore whose telephone number is 703-308-1884. The examiner can normally be reached on about 7:00 am to 4:30 pm (Monday thru Thursday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-1113.

  
Alain L. Bashore